

By the Committee on Real Property & Probate and
Representatives Goodlette, Greenstein and Gottlieb

1 A bill to be entitled
2 An act relating to consumer collection
3 practices; amending s. 559.72, F.S.;
4 prohibiting certain communications with a
5 debtor's attorney; prohibiting the causing of
6 charges to be made to any debtor; providing
7 penalties; amending s. 559.77, F.S.; increasing
8 the maximum amount of civil penalties;
9 providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsections (16) and (17) of section
14 559.72, Florida Statutes, are amended, and subsections (18)
15 and (19) are added to said section, to read:

16 559.72 Prohibited practices generally.--In collecting
17 consumer debts, no person shall:

18 (16) Mail any communication to a debtor in an envelope
19 or postcard with words typed, written, or printed on the
20 outside of the envelope or postcard calculated to embarrass
21 the debtor. An example of this would be an envelope addressed
22 to "Deadbeat, Jane Doe" or "Deadbeat, John Doe"; ~~or~~

23 (17) Communicate with the debtor between the hours of
24 9 p.m. and 8 a.m. in the debtor's time zone without the prior
25 consent of the debtor; ~~-~~

26 (18) Communicate with a debtor if the person knows the
27 debtor is represented by an attorney with respect to such debt
28 and has knowledge of, or can readily ascertain, such
29 attorney's name and address, unless the debtor's attorney
30 fails to respond within a reasonable period of time to a

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1 communication from the person or unless the debtor's attorney
2 consents to direct communication with the debtor; or
3 (19) Cause charges to be made to any debtor for
4 communications by concealment of the true purpose of the
5 communication, including collect telephone calls and telegram
6 fees.

7 Section 2. Section 559.77, Florida Statutes, is
8 amended to read:

9 559.77 Civil remedies.--

10 (1) A debtor may bring a civil action against a person
11 violating the provisions of s. 559.72 in a court of competent
12 jurisdiction of the county in which the alleged violator
13 resides or has his or her principal place of business or in
14 the county wherein the alleged violation occurred.

15 (2) Upon adverse adjudication, the defendant shall be
16 liable for actual damages and for additional statutory damages
17 of up to \$1,000 or \$500, whichever is greater, together with
18 court costs and reasonable attorney's fees incurred by the
19 plaintiff. In determining the defendant's liability for any
20 additional statutory damages, the court shall consider the
21 nature of the defendant's noncompliance with s. 559.72, the
22 frequency and persistence of such noncompliance, and the
23 extent to which such noncompliance was intentional. In any
24 class action lawsuit brought under this section, the court may
25 award additional statutory damages of up to \$1,000 for each
26 named plaintiff, and an aggregate award of additional
27 statutory damages not to exceed the lesser of \$500,000 or 1
28 percent of the defendant's net worth for all remaining class
29 members. ~~The court may not, in its discretion, award punitive~~
30 ~~damages, but and~~ may provide such equitable relief as it deems
31 necessary or proper, including enjoining the defendant from

1 further violations of this part. If the court finds that the
2 suit fails to raise a justiciable issue of law or fact, the
3 plaintiff shall be liable for court costs and reasonable
4 attorney's fees incurred by the defendant.

5 (3) A person shall not be held liable in any action
6 brought under this section if the person shows by a
7 preponderance of the evidence that the violation was not
8 intentional and resulted from a bona fide error
9 notwithstanding the maintenance of procedures reasonably
10 adapted to avoid any such error.

11 (4) An action brought under this section must be
12 commenced within 2 years after the date on which the alleged
13 violation occurred.

14 Section 3. This act shall take effect July 1, 2000,
15 and applies to any cause of action accruing on or after that
16 date.

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